



Written by [Thomas R. Eddlem](#) on September 21, 2009

## Torture Probe Limited to Unauthorized Torture?

“The Justice Department’s review of detainee abuse by the CIA will focus on a very small number of cases,” the September 19 Washington Post reported. Prosecutor John H. Durham is tasked with investigating a mere half-dozen cases of torture, the Post reported, but not torture officially sanctioned by the top levels of the Bush administration.



Among the cases being investigated is the case of one Afghan who was stripped and beaten at the secret [“Salt Pit” prison in Afghanistan](#). Chained to a concrete floor and exposed to the winter air overnight, the naked detainee froze to death. But even in instances of supposed “unauthorized” interrogation tactics (i.e., torture) like this case, details of higher level corruption seep out. “The CIA later promoted a young case agent who supervised the Salt Pit interrogation, one of his first big assignments, which suggested that the agency did not think any crime had been committed,” the *Post* [reported](#). “The agent’s supervisor played an unspecified role in other incidents of detainee abuse in Iraq, according to sources.”

The more limited mission Durham must operate under comes as the torture probe itself is under intense pressure from the political establishment. The probe “creates an atmosphere of continuous jeopardy for those whose cases the Department of Justice had previously declined to prosecute,” seven former CIA Directors [wrote](#) to President Obama September 18.

The former CIA chiefs want Durham fired, and the [text of the letter](#) revealed the underlying self-interest between the lines. “Moreover, there is no reason to expect that the re-opened criminal investigation will remain narrowly focused,” the CIA chiefs wrote.

That was a motive the American Civil Liberties Union was quick to [pounce upon](#), and it’s hard to fault them for it:

The attorney general’s investigation should be allowed to proceed without interference, and it certainly should not be derailed by the self-serving protests of former CIA officials who oversaw the very crimes that are being investigated. If there is a problem with the unfolding criminal investigation, it is that its focus is too narrow. There is abundant evidence that torture was authorized at the highest levels of the Bush administration, and the Justice Department’s



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investigation should be broad enough to encompass Bush administration lawyers and senior officials — including the CIA officials — who authorized torture.

The CIA directors [argued](#) that “those men and women who undertake difficult intelligence assignments in the aftermath of an attack such as September 11 must believe there is permanence in the legal rules that govern their actions.” But what is the value of “permanence in the legal rules” if CIA officers can kill detainees at will, and then get promoted by senior political officials for their crimes? That’s not a system of rules, it’s gangsterism.

CIA directors [claim](#) that “if criminal investigations closed by career prosecutors during one administration can so easily be reopened at the direction of political appointees in the next, declinations of prosecution will be rendered meaningless.” But but the real issue must eventually become how those original investigations were quashed. The Bush administration was known for [firing district attorneys with which it did not agree](#). The “career prosecutors” the CIA directors spoke of were also political appointees who served at the pleasure of President Bush.

What’s not in dispute among the well-informed is that the Bush administration authorized [some of the most hideous forms of torture that can be committed against another human being](#), and that they authorized it from the top. This torture was backed up with [poorly reasoned memoranda](#) from top levels of the Bush Justice Department.

The attorney general is the people’s lawyer, not the president’s lawyer, and it would be profoundly inappropriate for President Obama to interfere with his work.” The letter from the seven former CIA chiefs should be seen as a yet another instance of obstruction of justice by the Bush administration and its apologists.

*Photo: AP Images*



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